

Mayor and Town Council of Mountain Lake Park
Zoning Ordinance Amendment No. 2023-02 for Transient Rental Housing, AirBNB, VRBO

TOWN OF MOUNTAIN LAKE PARK

ORDINANCE NO. 2023-02

CIR CT GARRETT CO, MD
2023 JUN 14 PM1:38

ZONING ORDINANCE AMENDMENT FOR TRANSIENT RENTAL HOUSING, AIRBNB, VRBO

AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF MOUNTAIN LAKE PARK AMENDING THE ZONING ORDINANCE TO PERMIT TRANSIENT RENTAL HOUSING, AIRBNBS AND VRBOS AND ADOPTING NEW OR AMENDED PROVISIONS IN THEIR STEAD.

WHEREAS, the Mayor and Town Council of Mountain Lake Park is authorized by the Maryland Local Government Annotated Code Title 5, Subtitle 2, or its successor, and by the Mountain Lake Park Town Charter to enact ordinances to protect the health, safety and welfare of residents of and visitors to Mountain Lake Park, and

WHEREAS, on December 5, 2013, the Mayor and Town Council of Mountain Lake Park adopted a zoning ordinance that permitted certain types of rentals, and

WHEREAS, the Town finds that the zoning ordinance should include transient rental housing, Airbnb's, and VRBOS so they may also be permitted by the zoning ordinance.

BE IT ORDAINED AND RESOLVED, the following is added to Article 2. Definitions:

238A Transient Rental Housing:

A use which is referred to as a room or suite of rooms which is occupied not as a principal residence and:

- A. Is a single-family dwelling; or
- B. Multi-family dwelling; and
- C. Has 11 or fewer sleeping rooms available for rent or for hire for transient occupancy by registered guest; and
- D. Is rented by persons for periods of less than thirty (30) consecutive days.

BE IT FURTHER ORDAINED AND RESOLVED, the following is added to Section 405:

405 Table of Use Regulations

RESIDENTIAL USES

(11A) Transient Rental Housing

PD	TR	SR	C	AR	R	SW
SE	SE	SE	SE	SE	SE	N

Transient Rental, AirBNB, VRBO

Purpose

Mountain Lake Park finds that transitory uses of residential property tend to adversely affect the residential character of the community and are injurious to the health of the community.

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Therefore, it is necessary and in the interest of the public health, safety and welfare of the town to monitor and provide reasonable means for citizens of Mountain Lake Park to mitigate impacts created by such transitory uses of residential property within the municipality of Mountain Lake Park. It is unlawful for any owner of any property within the geographic bounds of Mountain Lake Park, to rent or operate a Transient Rental, AirBNB or VRBO contrary to the procedures and regulations established in this Article or applicable state statute.

Section 1 - Definitions.

For the purpose of this Article, the following terms, phrase, words, abbreviations, and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future tense; words in the plural number include the singular number, and words in the singular number in the plural number. The word “shall” is always mandatory. Words not defined shall be given their meaning as provided in Article 2 of the Code of Ordinances of Mountain Lake Park, Maryland.

Garbage as defined in the Mountain Lake Park Table of Use.

Residential Property shall mean “Residence, one-family;” “Resident, two-family;” “Residence, three-family;” “and Residence, four-family” as defined in Section 216 of the Zoning Ordinances.

Responsible Party shall mean the owner or the person designated by the owner of the Transient Rental to be called upon to answer for the maintenance of the Transient Rental and the conduct and acts of Transient Occupant of residential properties.

Transient Occupants means any person, or guest or invitee of such person, who occupies or is in the actual or apparent control or possession of Residential Property, requires obtaining a Certificate of Compliance (permit) as a Transient Rental. It shall be rebuttable that any people who hold himself or herself out as being an occupant or guest of an occupant of the Transient Rental are a Transient Occupant.

Transient Rental shall mean any unit or group of units in an apartment building or cooperative or any individually or collectively own single-family, two-family, three-family, or four-family house or dwelling unit that is rented to Transient Occupants for periods of less than thirty (30) days or which is advertised or held out to the public as a place rented to Transient Occupants, including, but not limited to, Vacation Rentals.

Vacation Rental shall have the same meaning as a Transient Rental.

Section 2 - Certificate of Compliance Required

It is unlawful for any person to allow another person to occupy any Transient Rental within Mountain Lake Park, or offer any Residential Property for rent and/or lease as a Transient Rental within Mountain Lake Park, unless the person has obtained the Certificate of Compliance for the Transient Rental within Mountain Lake Park in accordance with the provisions of this article.

(a) A person may allow another person to occupy any Transient Rental without the issuance of a Certificate of Compliance from Mountain Lake Park if all of the following are met:

1. The Residential Property to be occupied by the Transient Occupant or any other property owned by the titled owner of the Residential Property to be occupied by a Transient Occupant, is not in violation of any section of the Zoning Ordinances of Mountain Lake Park; and,

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2. There are no unsatisfied liens recorded against the Residential Property to be occupied by a Transient Occupant, or any other property owned by the titled owner of the Residential Property to be occupied by a Transient Occupant, as a result of any violations of any section of the Zoning Ordinances of Mountain Lake Park; and,
3. A complete application for a Certificate of Compliance for the Residential Property as a Transient Rental has been filed pursuant to Section 900B and all applicable fees have been paid; and,
4. That said occupancy was scheduled prior to July 1, 2022, as evidenced by a written and validly executed rental agreement or contract provided to the Town Clerk no later than November 1, 2022; however, any renewal terms of any occupancies scheduled after November 1, 2022, shall require a Certificate of Compliance; and
5. For a Vacation Rental, the Transient Rental has an effective and valid license as a Transient/Vacation Rental.

Section 3 - Application for Certificate of Compliance

- (a) Application for a Certificate of Compliance of a Transient Rental shall be made by the owner of the Transient Rental to the Mountain Lake Park Town Clerk or his or her designee, and Application for a Certificate of Compliance shall be certified as true and complete, and shall set forth at a minimum:
 - (1) The legal description of the Transient Rental offered for rental (i.e., address, lot, block and subdivision name);
 - (2) Name, address and phone number of owner of property that is the subject of the application;
 - (3) Name, address and emergency contact phone number of Responsible Party for the Transient Rental, which shall be a twenty-four (24) hour, seven (7) days' a week contact number;
 - (4) That the phone number for the Responsible Party will answer twenty-four (24) hours a day, seven (7) days a week by the Responsible Party;
 - (5) Completed, signed and authorized Fire Marshall inspection that has been completed within 30 days of application;
 - (6) Proof of registration with the Garrett County Taxation and Assessment office for sales and accommodations tax collection; however, if the Transient Property is exempt from sales and accommodations tax collection then the owner shall provide an affidavit confirming the exemption and a copy of the exemption certificate issued by the State of Maryland Department of Revenue;
 - (7) Acknowledgements by owner of the Residential Property of the following:
 - a. That all vehicles associated with the Transient Rental must be parked on the hard surface off-street parking provided on the property, and no more than one (1) vehicle per bedroom in the Transient Rental shall be permitted;
 - b. That the Transient Occupant of any Transient Rental shall comply with all applicable City, County, State and Federal laws, rules, regulations, ordinances and statutes.

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- c. That the owner of any Transient Rental shall comply with all applicable City, County, State and Federal laws, rules, regulations, ordinances and statutes.
 - d. The Residential Property, or any other property owned by the titled owner of the Residential Property, is not in violation of any section of the Zoning Ordinances of Mountain Lake Park;
 - e. That there are no unsatisfied liens recorded against the Residential Property, or any other property owned by the titled owner of the Residential Property, as a result of violation or any section of the Zoning Ordinances of Mountain Lake Park;
 - f. That no solid waste or recycling containers for the Residential Property shall be located at the curb for pickup before 6:00 p.m. of the day prior to pick up, and the solid waste and recycling containers shall be removed before 9:00 p.m. on the day of pick up;
 - g. That whoever, without being authorized, licensed, or invited willfully enters or remains in any structure or conveyance of a Residential Property, or, having been authorized, licensed, or invited, is warned by the owner or lessee, to depart the property and refuses to do so, commits the offense of trespass in a structure or conveyance.
 - h. That other properties are not jointly shared commodities and should not be considered available for use by Transient Occupants of the Transient Rental subject of the application.
- (8) Proof of owner's current ownership of the Residential Property; and Submission of an incomplete application form shall result in rejection of the application.

Section 4 - Responsible Party Required

Whenever any Residential Property is required to obtain a Certificate of Compliance under this Article, the owner of the Transient Rental shall appoint a natural person who resides within twenty-five (25) miles of the Transient Rental, the distance measured using airline measurement from the closest property lines of the Transient Rental and the Responsible Party's residence, to serve as the Responsible Party for service of notices as are specified herein, and notices given to the Responsible Party shall be sufficient to satisfy any requirement of notice to the owner of the Transient Rental. An initial Responsible Party shall be designated and name submitted with the application for the Certificate of Compliance, and the Mayor or his/her designee shall thereafter be notified of any change of Responsible Party within five (5) business days of such change. Further, it is the affirmative duty of the Responsible Party to:

- (1) Inform all Transient Occupants, in writing, prior to occupancy of the Transient Rental of applicable Mountain Lake Park ordinances concerning noise, residency prohibitions, open burning, vehicle parking and garbage.
- (2) Maintain all Transient Rentals under their control of compliance with the occupancy limits as specified in the ordinance.
- (3) See that provisions of this Article are complied with and promptly address any violations of this Article or any violations of law which may come to the attention of the Responsible Party.

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- (4) Be available with authority to address and coordinate solutions to problems with Transient Rental twenty-four (24) hours a day, seven (7) days a week;
- (5) Be able to, and shall, respond to, emergency calls within one (1) hour of notification;
- (6) Keep available a register of all Transient Occupants, which shall be open to inspection by authorized personnel of Mountain Lake Park at all times, and
- (7) Maintain the entire Transient Rental free of garbage and litter; provided however, that this subsection shall not permit the storage of garbage, recyclables, and litter in wheeled receptacles with hinged lids in good repair.

Section 5 - False Information

It shall be unlawful for any person to give any false or misleading information in connection with the application required by this Article.

Section 6 - Minimum Requirements for Issuance of a Certificate of Compliance.

The Mayor or his designee may issue a Certificate of Compliance to the applicant upon proof of the following:

- (a) The Owner of the Transient Rental completed the Mountain Lake Park Special Exception Application;
- (b) The application fee has been paid to the Town of Mountain Lake Park;
- (c) A Garrett County certificate of registration for purposes of collecting and remitting accommodations and sales tax;
- (d) A completed inspection from the Fire Marshall that has been completed within thirty (30) days prior to the application; and
- (e) A copy of the form lease agreement to be used when contracting with Transient Occupants.

Section 7 - Transient Rental Standards

The following standards shall govern the use of any Transient Rental as a permitted use:

- 1. Minimum life/safety requirements;
 - a. Swimming pool, spa and hot tub safety. A swimming pool, spa or hot tub shall comply with the current standards of the Residential Swimming Pool Safety Act.
 - b. Smoke and Carbon Monoxide (CO) detection and notification system. If an interconnected and hard-wired smoke and carbon monoxide (CO) detection and notification system is not in place within the Transient Rental, then battery-operated smoke and carbon monoxide (CO) detectors must be present.
 - c. Fire extinguisher. A potable, multi-purpose dry chemical 2A:10B:C fire extinguisher shall be installed, inspected and maintained in accordance with NFPA 10 on each floor/level of the Transient Rental. The extinguisher shall be installed on the wall in an open common area or in an enclosed space with appropriate markings visibly showing the location.

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2. **Maximum Occupancy.** The following specific site considerations in subsections a., b., and c., shall limit any Transient Rental occupancy to whichever is less, as applicable, below:
 - a. One (1) person per one hundred fifty (150) gross square feet of permitted living space.
 - b. Two (2) persons per bedroom.
 - c. In Preservation District, Commercial, and Suburban Residential zoning districts, the maximum occupancy shall be limited to eight (8) Transient Occupants per Transient Rental. In all other zoning districts, the maximum occupancy shall be limited to sixteen (16) Transient Occupants per Transient Rental.
3. **Solid Waste Handling and Containment.** Solid waste containers shall not be placed at curbside before 6:00 p.m. of the day prior to solid waste pick up, and the solid waste container shall be removed from curbside before 9:00 p.m. of the day of pick up.
4. **Minimum Transient Occupant Information.** The Transient Occupant shall be provided with a copy of the information required in this section and the following shall be posted conspicuously within the Transient Rental:
 - a. A statement advising the Transient Occupant that any sound shall not be plainly audible for a period of one (1) minute or longer at a distance of twenty-five (25) feet or more when measured from a source property line between hours of 10:00 p.m. and 8:00 a.m. daily and at a distance of fifty (50) feet or more when measure from the source of property line between the hours of 8:00 a.m. and 10:00 p.m. daily;
 - b. A sketch of the location of the off-street parking spaces for the Transient Rental;
 - c. The days and times of trash pick-up as well as the permitted times for placement of receptacles for collection;
 - d. The location of the nearest hospital;
 - e. The county's non-emergency police phone number;
 - f. There shall be posted, next to the interior door of each bedroom a legible copy of the building evacuation map – minimum size 8 ½" by 11".
5. **Minimum wording for Agreement relating to Transient Rental.** Any agreement utilized by an occupant of the Transient Rental shall contain the Minimum Transient Occupant Information provided in this section.
6. **Designation of a Transient Rental Responsible Party** capable of meeting the duties provided in Section 238A.
7. **Advertising.** Any advertising of a Transient Rental shall conform to information included in the Transient Rental Certificate of Compliance particularly as this pertains to maximum occupancy.
8. **Posting of the Certificate of Compliance.** The Certificate of Compliance shall be posted on the back of or next to the main entrance door and shall include at a minimum the names, address and phone number of the Responsible Party and the maximum occupancy of the Transient Rental.

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9. Other standards. Any other standards contained with the Zoning Ordinances of Mountain Lake Park to include, but not limited to: noise, open burning, setbacks, and similar provisions.

Section 8 - Certificate of Compliance is not transferrable.

No Certificate of Compliance issued under this Article shall be transferred or assigned or used by any person other than the one whom it was issued, or at any location other than the one for which it was issued.

Section 9 - Expiration of Certificate of Compliance.

All Certificates of Compliance issued under the provisions of this Article shall be valid for no more than five (5) years and all Certificates of Compliance shall expire on December 31 five years after the year issuance, regardless of when the certificate was issued during the year.

1. Certificate Renewal. Renewal of Compliance Certificate will require a new inspection certification from the Fire Marshall's office. Once inspected and submitted the Certificate of Compliance will be renewed without an application fee or Zoning Appeals Board hearing as required by Mountain Lake Park Zoning Ordinances.

Section 10 - Suspension and Revocation.

- (a) Any Certificate of Compliance issued pursuant to this Article may be denied, revoked, or suspended by the Mayor or designee of Mountain Lake Park upon the adjudication of a violation of this Article, any Zoning Ordinance of Mountain Lake Park, or state law by the owner or Responsible Party. Such denial, revocation or suspension is in addition to any penalty provided herein.
- (b) Offenses/violations.
 - (1) Non-compliance with any provision of this Article shall constitute a violation of this article.
 - (2) Separate violations. Each day a violation exists shall constitute a separate and distinct violation, except that occupancy violations shall be governed by subsection 238A.
- (c) Remedies and Enforcement
 - (1) Violations of this Article shall be subject to penalties as part of a progressive enforcement program with the primary focus on compliance and compatibility with adjoining properties, versus penalties and legal actions. To accomplish a safe and effective Transient Rental program, it is Mountain Lake Park's objective that the Transient Rental owners and Responsible Parties are responsive and responsible in the management of the Transient Rental for compliance with this Article. Code Enforcement activities will be in accordance with the Zoning Ordinances of Mountain Lake Park.
 - (2) Warnings. Warnings shall be issued for first-time violations and have a correction/ compliance period associated with it. Such warnings may include notice to other agencies for follow-up by such agencies, if

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- applicable. Non-compliance with correction compliance period shall result in the issuance of a citation.
- (3) Fines per violation coincide with Mountain Lake Park Code Enforcement for the first, second, and third repeat violations. Mountain Lake Park may also rely on an appropriate enforcing agency at the state or local level.
- (d) Suspension or Revocation of Transient Rental Certificate of Compliance. In addition to any fines and any other remedies described herein or provided for by law, the Mayor and Town Council or designee may suspend or revoke a Transient Rental Certificate of Compliance for multiple violations of the maximum occupancy limits in this Article in any continuous twelve (12) month period, in accordance with the following:
- (1) Suspension time frames.
 - a. Upon a second violation of the maximum occupancy limits contained in this Article the Transient Rental Certificate of Compliance shall be suspended for a period of thirty (30) calendar days.
 - b. Upon a third violation of the maximum occupancy limits contained in this Article the Transient Rental Certificate of Compliance shall be suspended for a period of twelve (12) calendar months.
 - c. For each additional violation of the maximum occupancy limits contained in this Article the Transient Rental Certificate of Compliance shall be suspended for an additional period of twelve (12) calendar months.
 - (2) Suspension restrictions. A Transient Rental may not provide transient occupancy during any period of suspension of a Certificate of Compliance.
 - a. The suspension shall begin immediately following notice, commencing on the earlier of:
 - (i) the expiration of the current Transient Rental agreement period; or
 - (ii) if multiple separate rental agreements are simultaneously applicable to a Transient Rental, the expiration of all agreements for the Transient Occupants utilizing the Transient Rental on the date of delivery or a notice of violation to the owner or Responsible Party; or
 - (iii) thirty (30) calendar days, or as otherwise determined by Code Enforcement or the Mayor and Town Council.
 - b. Operation during any period of suspension shall be deemed a violation pursuant to this Article and shall be subject to a daily fine, up to the maximum amount as otherwise provided by Mountain Lake Park for repeat violations, for each day the Transient Rental operates during a period of violation.

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- (3) Revocation of Certificate of Compliance. A Residential Property shall not be used as a Transient Rental after revocation of a Certificate of Compliance. A Transient Rental Certificate of Compliance may be revoked by the Code Enforcement Officer or Mayor and Town Council following a hearing in which multiple violations of this Article have occurred, and the Code Enforcement Officer or Mayor and Town Council finds that violations are intentional, and affect the health, safety, and welfare of surrounding properties and residents. A Transient Rental Certificate of Compliance may also be revoked if the Code Enforcement Officer or Mayor and Town Council finds that the owner made material misrepresentations on the Transient Rental Special Exception Application.
- (4) During any period of suspension or revocation of a Certificate of Compliance, no advertisement for the Transient Rental shall occur.
- (5) The Transient Rental owner shall not be entitled to any refund of the application fee paid for the Certificate of Compliance for any portion of the unexpired term of a Certificate of Compliance due to suspension or revocation of the Certificate of Compliance.

Section 11 - Complaints

Whenever a violation of this Article occurs, or is alleged to have occurred, any person may file a verbal or written complaint. Such complaint, stating fully the causes and basis thereof, shall be filed with the Mayor and Town Council or designee. The Mayor and Town Council or designee shall promptly record such complaint, investigate, and take action thereon in accordance with this Article and the Zoning Ordinances of Mountain Lake Park.

Section 12 - Enforcement

The Mayor and Town Council or designee shall enforce the provisions of this Article as provided in Article 1109 of the Zoning Ordinances of Mountain Lake Park

(To be placed on Mountain Lake Park Letterhead)

Certificate of Compliance
Permit No. _____

Property Owners Name _____
Address _____
City, State, Zip Code _____

Transient Rental Address _____
City, State, Zip Code: _____

Emergency Contact: _____
Emergency Contact Phone: _____

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Issue Date	
Expiration Date	
Maximum Approved Occupancy	

Authorized Signature


Date

BE IT FURTHER RESOLVED, this ordinance amendment shall be duly advertised in accordance with the Policy for the Adoption of Ordinances by the Mayor and Town Council of Mountain Lake Park. A public hearing on this zoning ordinance amendment shall be held on the 1st day of June 2023, at 6:00 p.m. at the Town Hall located at 1007 Allegany Drive, Mountain Lake Park, Maryland 21550.

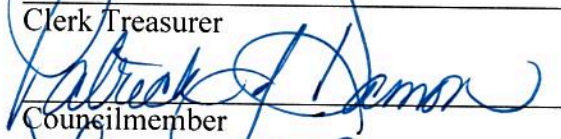
INTRODUCED this 4th day of May 2023. **ECOND READING** this 1st day of June 2023. **ADOPTION** this 1st day of June 2023.

AND BE IT FURTHER ORDAINED AND RESOLVED, this Ordinance shall be effective June 11, 2023.


ATTEST:




Clerk/Treasurer




Councilmember



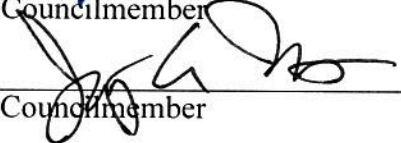
Councilmember



Mayor



Councilmember



Councilmember

Councilmember